

MARYLAND DEPARTMENT OF THE ENVIRONMENT
GENERAL PERMIT FOR STORMWATER ASSOCIATED WITH CONSTRUCTION ACTIVITY
General NPDES Permit Number MDRC
State Discharge Permit Number 14GP

EFFECTIVE DATE: January 1, 2014 EXPIRATION DATE: December 31, 2018

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PART I. COVERAGE UNDER THIS PERMIT

A. Permit Applicability to Areas in Maryland

This permit covers all areas of the State of Maryland.

B. Eligibility

1. What this permit covers:

This permit covers all new and existing stormwater discharges that are composed in whole or in part of discharges associated with construction activity [as defined by 40 Code of Federal Regulations (40 CFR), Section 122.26 (b)(14)(x) and Section 122.26(b)(15)(i); see Part IX.3 for further definition of “construction activity”]. This permit is not an alternative for and does not take the place of any local permits or ordinances required by Maryland law or regulation or by the county or municipality that has jurisdiction where the construction activity occurs, including but not limited to a grading permit, erosion and sediment control plan approval, or stormwater management plan approval.

2. Persons eligible for coverage:

To be eligible for coverage under this general permit, a person, alone or with other persons who are also permittees, must have control of the permitted activities on the site. Such control of permitted activities includes, but is not limited to, authority to direct those working on the site to take actions to comply with the permit, correct violations (including repair or installation of erosion and sediment controls), and/or halt construction activity until violations of the permit are corrected.

3. Facilities with a permit for a non-stormwater discharge:

- a. Stormwater discharges associated with construction activity at facilities which have a permit for a discharge other than stormwater can be covered by this general permit, an alternative general permit, or, at the discretion of the Director, an existing individual permit may be amended to cover stormwater discharges associated with construction activities.
- b. Discrete disturbances within one quarter mile from another discrete disturbance (as measured from the perimeter of one planned limit of disturbance to the perimeter of the other disturbance) and under the control of the same person must be counted together for the purposes of permit eligibility and coverage (e.g., if one disturbed area is 0.7 acres and another area within one quarter mile is 0.5 acres, permit coverage is required since the combined acreage is an acre or more).
- c. Earth disturbance for the purposes of preparation of sites for mineral mining or coal mining is not eligible for coverage under this General Permit. Such sites may require coverage under other General Permits or individual permits specifically designated for discharges from mineral mining and coal mining activities. Mining sites where construction of structures or other non-mining related development will occur as part of reclamation, or any non-mining earth disturbance following completion of mining reclamation (unless otherwise ineligible for coverage), must obtain coverage under this General Permit if earth disturbance of one acre or more will occur.
- d. Earth disturbance of one acre or more for the purposes of construction of landfill cells or other structures, roads, and appurtenances to landfill operation must be covered under this General Permit unless the Director has authorized coverage under a different permit or general permit. For areas such as the interior of landfill cells where stabilization does not occur, the permittee may terminate coverage once the landfill cell begins operating as a landfill and accepting wastes.

C. Requiring an Individual Permit or an Alternative General Permit

1. The Director may require any person authorized by this permit to apply for and obtain either an individual permit or coverage under an alternative general permit. Any interested person may petition the Director to take action under this paragraph. The Director may require any person authorized to discharge under this permit to apply for an individual permit or obtain

coverage under an alternative general permit only if that person has been notified in writing that such a change is required. This notice shall include:

- a. A brief statement of the reasons for this decision;
 - b. A statement setting a deadline for the notified person to file an application for an individual permit or file a NOI in accordance with the terms of the alternative general permit;
 - c. A permit application if applicable; and
 - d. For existing permittees, a statement that on the effective date of the individual permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate.
2. The Director may grant additional time to submit the application or NOI upon request of the applicant. If the person so notified fails to submit in a timely manner an individual permit application or an NOI for coverage under an alternative general permit as required by the Director under this paragraph, then the individual permittee's coverage under this permit is automatically terminated at the end of the day specified in the Director's notification.
 3. Any person authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit or filing an NOI for coverage under an alternative general permit. The person seeking an individual permit shall submit an individual application in accordance with the United States Environmental Protection Agency's (EPA) National Pollutant Discharge Elimination System (NPDES) regulations at 40 C.F.R. Part 122, with reasons supporting the request to the Director. The person seeking coverage under an alternative general permit shall file an NOI in accordance with the terms of the alternative general permit. A request for an individual permit shall be granted if the Director determines that the reasons cited by the applicant are adequate to support the request. If the applicant seeks coverage under an alternative general permit, the terms of that permit will determine whether coverage under the alternative general permit is obtained.
 4. When an individual permit is issued to a person otherwise covered by this permit, the applicability of this permit to the individual permittee is automatically terminated on the effective date of the individual permit. Similarly, when a person subject to this permit obtains coverage under an alternative general permit, the applicability of this permit is terminated on the effective date of the alternative general permit. When an individual permit is denied to an applicant otherwise covered by this permit, or the applicant is denied coverage under the terms of an alternative general permit, the applicability of this general permit to the permittee may be terminated by MDE.

D. Authorization.

1. A person planning construction activity must have submitted an NOI and received from the Administration documentation of general permit coverage to be authorized to discharge stormwater under this general permit.
2. Emergency Authorization: A person who must conduct earth-disturbing activities prior to obtaining general permit coverage in response to a public emergency (e.g., natural disaster, widespread disruption in essential public services), and the related work requires immediate authorization to avoid imminent endangerment to human health, public safety, or the environment, or to reestablish essential public services, must obtain emergency authorization from the Director within 24 hours after initiating earth-disturbing activities. The person must obtain such emergency authorization in writing or via electronic mail. Where circumstances allow, it is recommended that a person obtain emergency authorization prior to initiating earth-disturbing activities. A person with emergency authorization is authorized to discharge on the condition that a complete and accurate NOI is submitted within 7 calendar days after commencing earth-disturbing activities, and must ultimately complete all requirements to obtain regular coverage under the general permit. The person must provide a copy of the emergency authorization with the NOI.

E. Transfer of Authorization.

1. Transfer of control of permitted activities at the site. A person submitting an NOI or holding general permit coverage who does not intend to control the permitted activities on the site

shall, prior to relinquishing control, transfer authorization under this permit to a duly authorized person who will control the permitted activities. The transfer shall become effective upon receipt by the Administration of a completed Transfer of Authorization form, signed by both the transferor and transferee. Persons may also submit a Transfer of Authorization through the electronic system designated by the Administration. The Transfer of Authorization form shall include a specific statement that the transferee will abide by all conditions of the erosion and sediment control plan and stormwater management plan

2. Obligations of the permittee. The permittee ("transferor") must familiarize the person who is assuming control of the permitted activities ("transferee") with the program and provide the transferee/new owner with copies of: this general permit; the documentation from the Administration that the site has coverage under the general permit; and the NOI submitted for the site. All conditions and obligations outlined in this general permit shall apply to the new permittee/owner upon transfer. See Part IV.C.4 for recordkeeping requirements applicable to the transferor following transfer.

Part II. NOTICE OF INTENT REQUIREMENTS

A. Deadlines for Notification.

1. For construction activity beginning on or after January 1, 2014:

Persons who intend to obtain coverage for a stormwater discharge associated with construction activity under this general permit shall submit an NOI in accordance with the requirements of this Part and shall not perform any land disturbing activities prior to receiving from MDE documentation of coverage under the general permit.

2. For construction activity beginning prior to and continuing on or after January 1, 2014, and holding valid coverage under a previous version of this general permit:

Permittees whose projects are currently covered under a previous version of the general permit must apply for coverage under this general permit by December 31, 2013. Projects meeting this deadline are not subject to the conditions of Part II.B, including the public notification period. Projects not meeting this deadline do not have permit coverage as of January 1, 2014, and must reapply for coverage as a new project.

3. Persons who intend to increase the number of acres that will be disturbed at the site beyond that stated in the documentation of coverage under the general permit must contact the Administration to request a modification to the permit coverage. For increases of one acre or more, the process to modify the permit coverage shall be the same as for an initial NOI.

B. NOI Approval Process and Public Review Period

1. *Certification of Erosion and Sediment Control Submission to Approval Authority.* Maryland Department of the Environment (MDE) will begin processing a Notice of Intent (NOI) to be covered under this general permit when the applicant provides certification that a final erosion and sediment control plan (ESC plan) was submitted to the appropriate approval authority in accordance with COMAR 26.17.02.09 E(4) and 26.17.01.07. If an NOI is submitted before the ESC plan is submitted to the approval authority, MDE will not accept it for processing and will send notice to the applicant that the NOI is incomplete and will not be processed until the required information is provided. MDE will regularly post NOI information on the MDE Website to include all NOIs submitted during the previous week.
2. *Public Notification Period.* In order to provide opportunity for public review of plans for sites to be covered by this permit, MDE will not act on NOIs for construction sites during a minimum 14-day period that begins on the date the NOI information is posted on the MDE Website. After 14 days have elapsed and following MDE's receipt of notification from the applicant demonstrating that the ESC plan for the project has been approved by the appropriate approval authority MDE

- will make every reasonable effort, within 48 hours of said 14-day period, to issue notification that the site is covered under the general permit for stormwater associated with construction activities, with the exception described in paragraph 3 of this section. If an NOI is submitted to MDE after the appropriate approval authority has already approved an ESC plan, MDE will advertise the submission of the NOI, but will not act on the NOI for 14 days. If no adverse comments are received during the 14 days, then the NOI will be processed like all other NOIs.
3. *Exception to NOI Approval Process.* If MDE receives, prior to issuance of General Permit coverage, a request from any person that the site be required to obtain an individual permit with a detailed, written explanation as to why the ESC plan fails to meet State erosion and sediment control or stormwater management standards, MDE will do the following: (i) notify the general permit applicant that a request that an individual permit be required has been received, (ii) evaluate the information, and (iii) make a decision and send notification of that decision to the NOI applicant and the person requesting that an individual permit be required as described in Section I.D.
 4. Persons who obtain coverage under this general permit shall, prior to commencing construction, develop and obtain approval from appropriate approval authority of: (i) erosion and sediment control plans in accordance with the requirements established in Title 4, Subtitle 1 of the Environment Article, Annotated Code of Maryland (Sediment Control); and in Code of Maryland Regulations (COMAR) 26.17.01 (Erosion and Sediment Control); and (ii) stormwater management plans (unless exempted by the following law or regulation) in accordance with the requirements established in Title 4, Subtitle 2 of the Environment Article, Annotated Code of Maryland (Stormwater Management); and in COMAR 26.17.02 (Stormwater Management). As described in Section VI.A., permittees must comply with the requirements of the erosion and sediment control plans and stormwater management plans.
- C. **Application.** The applicant shall submit to the Administration an NOI to be covered under this general permit. The NOI will constitute application and must be accompanied by the appropriate fee required by the Administration and established in State regulations to be considered complete. The applicant shall submit the NOI in either the electronic or paper format designated by the Administration. An applicant may submit an NOI form in accordance with the requirements of this Part after the applicable deadline. In such instances, an enforcement action for any stormwater discharges associated with the construction activity occurring prior to notification may be taken.
- D. **Failure to Notify.** Persons who disturb earth as part of a construction activity, fail to obtain coverage under an NPDES stormwater discharge permit as required herein, and discharge pollutants to waters of the United States without a permit, are in violation of the Clean Water Act (CWA). Persons who disturb one acre or more of earth, fail to obtain coverage under an NPDES stormwater discharge permit as required herein, and discharge pollutants to waters of the State are in violation of Section 4-413 and 9-322 of the Environment Article, Annotated Code of Maryland.
- E. **Contents of Applications.** As stated in Part II. C. above, an NOI to be covered under this general permit will constitute application. The NOI shall include, but not be limited to, the following:
1. The site's name, mailing address, and general location;
 2. The site's latitude and longitude (to the nearest 15 seconds);
 3. A map of the site;
 4. The permittee's name and signature, address, telephone number, and principal contact;
 5. A brief project description, including existing and proposed land uses;
 6. Standard Industrial Classification (SIC);
 7. The name of the closest named receiving waters (if the discharge is to a municipal separate storm sewer system, the name of the municipal system and the receiving waters shall be supplied);
 8. A confirmation that the permittee has compared the eventual receiving waters with the Maryland 303(d) list, the date on which the comparison took place, and a statement as to

whether the eventual receiving waters are listed on the 303(d) list as impaired for sediment. Indicate the name and location of the impaired waters.

9. The total site area, the total proposed disturbed area, the type(s) of stormwater management best management practice(s) (BMP) proposed, and the total drainage area to be controlled by each type of BMP; and
10. Permit number of any other NPDES Permit related to this site.

F. Fees. An application fee is required with the submission of the NOI form. The fee schedule is based on the size of the total planned disturbance. The applicant must determine the appropriate fee to be paid from the fee schedule set in State regulations.

G. Where to Submit. Applicants shall submit NOIs for coverage under this general permit either through the electronic system designated by the Administration or via mail to the Administration at the following address:

The Maryland Department of the Environment
Water Management Administration
P.O. Box 2057
Baltimore, Maryland 21203-2057

Persons intending to discharge stormwater associated with construction activity must submit erosion and sediment control and stormwater management plans in accordance with procedures established in, and to the approving authorities identified in, the laws and regulations cited in Part II.B.4 of this general permit.

H. Effective Date of Coverage. Coverage under this general permit is effective as described in Part I.
A. The completed application (NOI form) must be accompanied by the appropriate fee as outlined in Maryland regulations and in Part II. F. above. The effective date for Transfer of Authorization shall be in accordance with Part I.F. Coverage under this general permit will expire when the General Permit is reissued or expires, when a Notice of Termination form has been completed and received by the Administration, or when the Administration administratively terminates coverage for a site, whichever occurs first.

I. Notice of Termination. When all portions of a site have been permanently stabilized as defined herein, and all stormwater discharges from construction sites that are authorized by this permit are eliminated, the authorized permittee of the facility must submit a Notice of Termination form, which may be obtained through the electronic system designated by the Administration, on MDE's website, or upon request to MDE.

1. The Notice of Termination shall include, but not be limited to, the following:
 - a. The mailing address and location of the construction site for which notification is submitted. Where a mailing address is not available, the location can be described in terms of the latitude and longitude (to the nearest 15 seconds) and Maryland Grid Coordinates of the approximate center of the facility;
 - b. The permittee's name, address, and telephone number;
 - c. The name, address, and telephone number of the general contractor(s);
 - d. The NOI identification number;
 - e. The following certification statement, signed as required by section VI.L. herein:
"I certify under penalty of law that disturbed soils at the identified site have been permanently stabilized in accordance with approved erosion and sediment control plans; that temporary erosion and sediment controls have been removed or will be removed at an appropriate time; and that all stormwater discharges associated with construction activity from this site that are authorized by this general permit have been eliminated. I understand that by submitting this Notice of Termination, I am no longer authorized to discharge stormwater associated with construction activity by the general permit and that discharging pollutants in stormwater associated with construction activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by an NPDES permit. I understand that I must maintain the records described in Part IV.C.4 of the General Permit for three years from the date of this Notice of Termination. I understand that I have the duty to provide information in Part

VI.I. during this record retention period. I also understand that the submittal of this Notice of Termination does not release the permittee from liability for any violations of this permit or the Clean Water Act which may have occurred at this site."

2. The permittee shall transmit the completed Notice of Termination form through the electronic system designated by the Administration or via mail to the following address:

The Maryland Department of the Environment
Compliance Program
Water Management Administration
1800 Washington Blvd., Suite 420
Baltimore, MDE 21230-1708

Part III. SPECIAL CONDITIONS

A. Prohibition against Non-Stormwater Discharges.

1. All discharges covered by this permit shall be composed entirely of stormwater, except as provided below in paragraph 4.
2. Discharge of material other than stormwater must be in accordance with erosion and sediment control and stormwater management plans approved in accordance with the laws and regulations cited in Part II. B.4. above.
3. Discharges of material other than stormwater not listed in paragraph 4 below must be in compliance with an NPDES permit (other than this permit) issued for the discharge. Stormwater or process water discharges from concrete and asphalt plants, including batch plants, are not authorized under this permit and must have coverage under the General Permit for Discharges from Mineral Mines, Quarries, Borrow Pits and Concrete and Asphalt Plants or other individual permit. Discharges of stormwater which has contacted disturbed areas with known contamination by pollutants other than sediment are not authorized under this permit. The following discharges are also prohibited:
 - a. Wastewater from the washout of concrete, unless managed by an appropriate control in accordance with the 2011 Standards and Specifications for Soil Erosion and Sediment Control, Section H-6.
 - b. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials.
 - c. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance.
 - d. Soaps or solvents used in vehicle and equipment washing.
4. The following non-stormwater discharges may be authorized by this permit provided the non-stormwater component is a discharge from: dewatering from construction excavations, which must be managed by controls in accordance with the 2011 Standards and Specifications for Soil Erosion and Sediment Control or any updated standards issued by MDE (after their effective date); fire fighting activities; air conditioning condensate; uncontaminated spring water; and foundation or footing drains where flows are not causing an erosive condition or contaminated with process materials such as solvents.

B. Other Requirements for Erosion and Sediment Control and Stormwater Management Plans.

1. All plans for construction activity and any reports prepared pursuant to this permit, including self-inspection information, shall be available to the public under Section 308(b) of the CWA.
2. Upon request by the public, the permittee or person covered by this general permit shall make such documents available. However, the permittee may claim applicable portions of these documents as confidential in accordance with 40 Code of Federal Regulations (CFR) Part 2.

- C. Releases in Excess of Reportable Quantities.** In the event of a discharge of hazardous substances or oil from a construction site, such discharge shall be minimized and/or contained in accordance with the approved erosion and sediment control and stormwater management plans.

1. Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reporting quantity established under either 40 CFR 110, 40 CFR 117, or 40 CFR 302, occurs during a 24 hour period:
 - a. The permittee shall notify the National Response Center (NRC) as soon as he or she has knowledge of the discharge at 1-800-424-8802 or 202-267-2675 (in the Washington, DC metropolitan area), in accordance with the requirements of 40 CFR 110, 40 CFR 117, and 40 CFR 302;
 - b. The permittee shall notify the Maryland Department of the Environment as soon as he or she has knowledge of the discharge. The contact numbers are 410-537-3510 between 8AM - 5PM or after hours at (866) 633-4686
 - c. The permittee shall submit within 7 calendar days of knowledge of the release an application for individual permit coverage in accordance with the requirements of 40 CFR 122.26(c)(1)(ii), with a written description of the release, the circumstances leading to the release, the nature and date of the release, and steps taken to control and respond to the release. This application should be sent to the Maryland Department of the Environment, Water Management Administration;
 - d. The permittee shall, within 14 days of knowledge of the release, modify the existing erosion and sediment control and stormwater management plans to identify and provide for the implementation of steps to prevent and control the recurrence of such releases or similar releases in the future, and to respond to such releases. The permittee shall also provide notification to the Maryland Department of the Environment that the erosion and sediment control plan and stormwater management plan modifications have been completed and approved by the appropriate approval authority.
2. Discharges of hazardous substances and oil resulting from on-site spills are not authorized by this permit.
3. No condition of this general permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

D. Training of Personnel. The permittee must ensure that responsible personnel holding a valid Certificate of Training card are on site as required by the approved Erosion and Sediment Control Plan. The permittee must ensure that all site personnel are trained to understand aspects of permit and plan compliance relevant to their specific duties, including but not limited to BMP installation/maintenance and preventing and reporting spills and damaged BMPs.

Part IV. EFFLUENT LIMITATIONS, PREVENTION OF THE DISCHARGE OF SIGNIFICANT AMOUNTS OF SEDIMENT, MONITORING, RECORDING AND REPORTING REQUIREMENTS

A. Effluent Limitations.

1. The permittee must select, install, implement and maintain control measures (i.e., BMPs, controls, practices, etc.) at the construction site that minimize pollutants in the discharge as necessary to meet applicable water quality standards. The permittee must implement the control measures from commencement of construction activity until permanent stabilization is complete. In general, the stormwater controls developed, implemented, and updated consistent with the laws and regulations cited in Part II.B.4. of this general permit are considered as stringent as necessary to ensure that discharges covered by this permit do not cause or contribute to an excursion above any applicable water quality standard. As cited in Part VI.A, the permittee must comply with approved erosion and sediment control and stormwater management plans as a condition of compliance with this permit, as well as with federal effluent limitations at 40 CFR 450.21. Federal effluent limitations also require the following:
 - a. The permittee must minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, pavement wash water, and other wash waters. Wash

waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge.

- b. The permittee must minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and stormwater. The permittee must ensure that waste, garbage, and floatable debris are not discharged to receiving waters by keeping exposed areas free of such materials or by intercepting them before they are discharged.
 - c. The permittee must minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.
2. At any time after authorization, MDE may determine that the permittee's stormwater discharges may cause, have reasonable potential to cause, or contribute to an excursion above any applicable water quality standard, or are causing or contributing to an impairment of a waterbody [i.e., waterbodies listed as impaired on the Integrated Report for Section 303(d)]. If such a determination is made, MDE will require the permittee to:
 - a. Modify the stormwater controls to adequately address, achieve and document the identified water quality concerns;
 - b. Submit valid and verifiable data and information that are representative of ambient conditions and indicate that the receiving water is attaining water quality standards; and/or
 - c. Cease discharges of pollutants from construction activity and submit an individual permit application according to Part I.D.

B. Prevention of the Discharge of Significant Amounts of Sediment. In addition to Part IV.A. above, the permittee must take all reasonable measures to prevent the discharge of significant amounts of sediment to surface waters, or conveyance systems leading to surface waters, particularly in the Chesapeake Bay watershed or impaired waterways.

1. Conditions indicating discharge of significant amounts of sediment include, but are not limited to, the following:
 - a. Earth slides or mud flows;
 - b. Concentrated flows of stormwater such as rills, rivulets or channels that cause erosion when such flows are not filtered, settled or otherwise treated to remove sediment;
 - c. Turbid flows of stormwater that are not filtered, settled or otherwise treated to reduce turbidity;
 - d. Deposits of sediment at the construction site in areas that drain to unprotected stormwater inlets or catch basins that discharge directly to surface waters;
 - e. Deposits of sediment from the construction site on public or private streets outside of the permitted construction activity;
 - f. Deposits of sediment from the construction site on any adjacent property outside of the permitted construction activity; or
 - g. Discharges from the construction site to municipal conveyances, curbs and gutters, or streams running through or along the site where visual observations show that the discharges differ from ambient conditions in terms of turbidity so as to indicate significant amounts of sediment present in them.
2. If the permittee observes any of the triggering events described in Section IV.B, above, or if any person informs the enforcement authority or MDE of a triggering event and the enforcement authority or MDE informs the permittee that one or more of the triggering events was verified, the permittee must undertake the following actions and record the dates and results of these actions in an onsite logbook.
 - a. Within one day the permittee shall inspect erosion and sediment control practices to verify compliance with its approved Plans. Any deficiencies, including, but not limited to, failure to follow the approved sequence of construction, failure to

maintain approved buffers, grading beyond the limit of disturbance, or any approved sediment and erosion controls found to be missing, improperly installed or in need of maintenance must be corrected immediately and may be considered to be a violation of this permit until such time that they are corrected.

- b. If the site is found to be in compliance with its approved Plans, the permittee shall, by the next business day, contact the Compliance Program of the Water Management Administration in MDE, the enforcement authority for the site (if it is not MDE), and the appropriate approval authority for Erosion and Sediment Control and inform the authorities about the conditions observed during the inspection cited above. In addition to any requirements imposed by the delegated enforcement authority or MDE, the permittee shall, after notifying the enforcement authority, implement any of the following that are determined to be appropriate towards the prevention of further triggering events:
 - (1) Any change that may be approved in the field by the inspector for the enforcement authority for the site;
 - (2) Modifications to the Plans allowed as field modifications by the approval authority;
 - (3) Performing temporary or permanent seeding of disturbed areas more frequently than required by the approved Plan or regulation; or
 - (4) Increasing buffer distances.

The permittee shall implement any changes needed based on the above review within four days after the triggering event is observed.

3. If additional triggering events are observed, the permittee shall, through its site engineer, determine if the Erosion and Sediment Control Plan and Stormwater Management Plan are adequate, or whether additional on-site practices or plan modifications are required. Within three days of the second observation of a triggering event, the permittee shall contact the Compliance Program of the Water Management Administration in MDE, the enforcement authority for the site (if it is not MDE), and the approval authority for the Plans and advise them that:
 - a. The permittee observed a triggering event;
 - b. The event happened despite the fact that erosion and sediment controls were properly installed and maintained; and
 - c. The permittee is reviewing plans and will afford the approval authority the opportunity to concurrently review them.

The permittee's review of plans shall begin within three days of the triggering event. The permittee must submit revised plans to the approval authority no later than 14 days after the second observation of a triggering event. The permittee must obtain approval of the revised Plans from the approval authority and begin implementation of the changes immediately upon approval.

C. Monitoring and Records.

1. After the first earth disturbance occurs on the site, and thenceforth during the entire period of permit coverage whether the site is active or inactive, the permittee shall conduct inspections of the permitted area. The person(s) inspecting the site may be a person on the permittee's staff or a third party hired or arranged to conduct inspections. The person conducting the inspection must hold a Certificate of Training card for responsible personnel as required by Section 4-104(b) of the Environment Article, unless the erosion and sediment control plan approval authority has waived the requirement for a Certificate of Training in accordance with Section 4-104(b) of the Environment Article. The permittee shall conduct inspections at the following intervals:
 - a. Once each calendar week (Sunday to Saturday), except as in c;
 - b. The next day after a rainfall event resulting in runoff, except as in c;
 - c. For areas meeting stabilization requirements of COMAR 26.17.01.07.B.6(f) and the erosion and sediment control plan, once per month (if construction activity resumes in such a portion of the site at a later date, the inspection frequency immediately increases

- to that required in a and b; the permittee must document the beginning and ending dates of this period in its inspection records); and
- d. As required in Part IV.B.

2. During the entire period of permit coverage, the permittee shall maintain the following records at the site or, where this is impractical due to the lack of a suitable storage location at the site, in a location from which the permittee can produce the records for an inspector within one hour of the inspector's request:
- a. The approved erosion and sediment control plan, the approved stormwater management plan, a copy of this General Permit, a copy of the NOI application, a copy of the general permit coverage document from the Administration, and a copy of transfer of authorization documents (if applicable).
- b. Written reports of all inspections conducted by the permittee. The permittee shall use the standard written report form as provided by MDE. The permittee shall complete all applicable portions of the form, and may attach additional information to the form. The permittee shall ensure that the report includes:
- (1). the date and time of the inspection;
 - (2). the name(s) of the individual(s) who performed the inspection;
 - (3). whether significant amounts of sediment were observed as described in Part IV.B, Prevention of the Discharge of Significant Amounts of Sediment, above.;
 - (4). an assessment of the condition of erosion and sediment controls and how any deficiencies were or are being addressed;
 - (5). a description and date of any erosion and sediment control implementation and maintenance performed, including identification of any controls that have not been installed as required; and
 - (6). a description of the site's present phase of construction.
3. For a period of three (3) years from the date that general permit coverage for the site is terminated, the permittee shall maintain the following records:
- a. the NOI and records of all data used to complete the NOI.
- b. self-inspection reports;
- c. all inspection reports and enforcement actions issued to the permittee from any appropriate enforcement or approval authority, including MDE, the delegated enforcement authority, or the U.S. Environmental Protection Agency;
- d. a copy of the Notice of Termination (after it is prepared).
4. When a permit is transferred, the original permittee must maintain the records in Part IV.C.3 above that document the permit activity up to the date of transfer. The original permittee must maintain those records for three (3) years from the date of transfer. Both the original permittee and the new permittee must maintain a copy of the Transfer of Authorization document.
5. The permittee shall ensure that samples and measurements taken for the purpose of monitoring are representative of the monitored activity. Records of monitoring information must include:
- a. The date, exact place, and time of sampling or measurements;
 - b. The individual(s) who performed the sampling or measurements;
 - c. The date(s) analyses were performed;
 - d. The individual(s) who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.
 - g. all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation

D. Reporting Requirements. The permittee shall submit, upon request by MDE, the information maintained in accordance with Part IV. C. to:

The Maryland Department of the Environment
Water Management Administration
Compliance Program
1800 Washington Blvd, Ste 420
Baltimore, Maryland 21230-1708

Part V. CONSISTENCY WITH TOTAL MAXIMUM DAILY LOADS

If the discharge covered by this permit enters a water with an established or approved Total Maximum Daily Load (TMDL), including the Chesapeake Bay TMDL and the Maryland Watershed Implementation Plan, the permittee must implement measures to ensure that the discharge of pollutants from the site is consistent with the assumptions and meets the requirements of the approved TMDL, including any specific wasteload allocation that has been established that would apply to the discharge.

Part VI. STANDARD PERMIT CONDITIONS

- A. **Duty to Comply.** It is a condition of this permit that the permittee comply with erosion and sediment control and stormwater management plans approved in accordance with the laws and regulations cited in Part II.B.4, above, and with all conditions of this general permit. If MDE adopts applicable requirements after the effective date of this permit, including but not limited to revised Standards and Specifications for Soil Erosion and Sediment Control or requirements that permittees implement environmental site design through the use of nonstructural best management practices and other better site design techniques, the permittee must comply with those requirements by the deadline set forth in those requirements. Violations of plans for construction activity, including applicable Erosion and Sediment Control and Stormwater Management Plans, constitute violations of this permit, State law, and the CWA. Violations of this permit are grounds for enforcement action; for permit termination, revocation, reissuance, or modification; or for denial of a permit renewal.
- B. **Continuation of Coverage under This General Permit.** Once construction has commenced, it is a condition of this permit that erosion and sediment control and stormwater management plan approvals be kept in effect. Construction activity may not continue if these plans have expired, but may resume once plans are renewed without payment of an additional fee as long as coverage under this General Permit is still in effect.
- C. **Continuation of the Expired General Permit.** An expired general permit continues in force and effect until a new general permit is issued.
- D. **Need to Halt or Reduce Activity Not a Defense.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this general permit.
- E. **Duty to Mitigate.** The permittee shall take all reasonable steps to prevent or minimize the environmental or human health impact caused by any discharge allowed by this general permit.
- F. **Proper Operation and Maintenance.** The permittee shall at all times properly operate and maintain all systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the installation and operation of backup, auxiliary, or similar systems or controls, by a permittee when necessary to achieve compliance with the conditions of the permit.
- G. **Bypass**
 - 1. Definitions.
 - a. Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
 - b. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

2. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation.
3. Notice–
 - a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, the permittee must submit prior notice, if possible at least ten days before the date of the bypass.
 - b. Unanticipated bypass. The permittee must submit notice of an unanticipated bypass as soon as possible to the time when it is known, but in no case longer than 24-hours after learning of the event.
4. Prohibition of bypass.
 - a. Bypass is prohibited, and MDE or EPA may take enforcement action against the permittee for bypass, unless:
 - (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (3) The permittee submitted notices as required.
 - b. MDE or EPA may approve an anticipated bypass, after considering its adverse effects, if MDE or EPA determines that the bypass meets the three conditions listed above.

H. Upset

1. Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the permittee's reasonable control. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
2. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Part VI.H.3, below, are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
3. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
 - b. The permitted facility was at the time being properly operated;
 - c. The permittee submitted notice of the upset as required; and
 - d. The permittee complied with any required remedial measures.
4. Burden of proof. In any enforcement proceeding, the permittee, as the one seeking to establish the occurrence of an upset, has the burden of proof.

- I. **Duty to Provide Information.** The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Director upon request copies of records required to be kept by this permit, State law, or the CWA.
- J. **Other Information.** When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the NOI or in plans approved in accordance with the laws and regulations cited in Part II. B.4, he or she shall promptly submit such facts or information to the Director or the appropriate plan review authority.
- K. **Certification.** Any person signing documents under this section shall provide certification in accordance with the laws and regulations identified in Part VI. L below.

- L. **Signatory Requirements.** All submissions of reports, certifications or information shall be signed in accordance with requirements established in Title 4, Subtitle 1 of the Environment Article, Annotated Code of Maryland (Sediment Control); COMAR 26.17.01 (Erosion and Sediment Control); Title 4, Subtitle 2 of the Environment Article, Annotated Code of Maryland (Stormwater Management); and COMAR 26.17.02 (Stormwater Management). All Notices of Intent shall be signed as follows:
- For a corporation: by a responsible corporate officer;
 - For a partnership or sole proprietorship: by a general partner or the proprietor, respectively;
 - For a municipality, State, federal, or other public agency: by either a principal executive officer or a duly authorized official.
- M. **Liabilities under Other Laws.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 309 of the CWA, any applicable State or Federal law, or regulation under authority preserved by section 510 of the CWA.
- N. **Property Rights.** The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.
- O. **Severability.** The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.
- P. **Transfers.** This permit is not transferable to any person except after notice to the Director in accordance with Part I. E. above. As part of such transfer, the Director may require separate application for an individual permit as stated in Part I. C.
- Q. **Inspection and Entry.** The permittee shall allow the Director or an authorized representative of EPA or the State who is assigned responsibilities in the laws and regulations cited in Part II. B.4., upon the presentation of credentials and other documents as may be required by law, to:
1. Enter upon the permittee's premises where a regulated activity is located or conducted or where records must be kept under the conditions of this permit;
 2. Have access to and obtain copies at reasonable times of any records that must be kept under the conditions of this permit;
 3. Inspect at reasonable times, without prior notice, any construction site, facility, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and
 4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.
- R. **Civil Penalties for Violations of Permit Conditions.** In addition to civil penalties for violations of State water pollution control laws set forth in Section 9-342 of the Environment Article, Annotated Code of Maryland, the Clean Water Act and EPA regulations at 40 C.F.R. Part 19 provide that any person who violates Section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under Section 402 of the Act or in a permit issued under Section 404 of the Act, is subject to a civil penalty not to exceed \$37,500 per day for each violation. In the event that the sovereign immunity of the United States and its agencies does not apply, such penalties may be assessed for violations.
- S. **Criminal Penalties for Violations of Permit Conditions.** In addition to the criminal penalties for violations of State water pollution control laws set forth in Section 9-343 of the Environment Article, Annotated Code of Maryland, the Clean Water Act provides that:
1. Any person who negligently violates Section 301, 302, 306, 307, 308, 311(b)(3), 318, or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, or in a permit issued under Section 404 of the Act, is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than one year, or both; In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal

penalties of not more than \$50,000 per day of violation or by imprisonment of not more than two years, or both;

2. Any person who knowingly violates Section 301, 302, 306, 307, 308, 311(b)(3), 318, or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, or in a permit issued under Section 404 of the Act, is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than three years, or both; in the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both;
3. Any person who knowingly violates Sections 301, 302, 306, 307, 308, 311(b)(3), 318, or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, or in a permit issued under Section 404 of the Act, and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury, is subject to a fine of not more than \$250,000 or imprisonment for not more than 15 years, or both; in the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both; an organization, as defined in Section 309(c)(3)(B)(iii) of the Act, shall, upon conviction of violating the imminent danger provision be subject to a fine of not more than \$1,000,000 and can fined up to \$2,000,000 for second or subsequent convictions;
4. Any person who: falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit, or knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance, shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

T. Administrative Penalties for Violations of Permit Conditions. In addition to administrative penalties for violations of State water pollution control laws set forth in Section 9-342 of the Environment Article, Annotated Code of Maryland, the Clean Water Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

1. Class I Penalty. Not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently \$16,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$37,500).
2. Class II Penalty. Not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently \$11,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$177,500).

U. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation, reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Part VII. REOPENER CLAUSE

At any time at the discretion of MDE or the U.S. Environmental Protection Agency, or if there is evidence indicating that stormwater discharges authorized by this permit cause, have the reasonable potential to cause or contribute to an excursion above any applicable water quality standard, MDE may require the owner or operator of such discharge to obtain an individual permit or alternative general permit coverage in accordance with Part I. C. of this permit. Alternatively, MDE may revoke this permit or modify this permit to include different limitations and requirements, in accordance with the procedures contained in COMAR 26.08.04.10 and 40 C.F.R. §§ 122.62, 122.63, 122.64 and 124.5.

Part VIII. AUTHORITY TO ISSUE GENERAL NPDES PERMITS

On September 5, 1974, the Administrator of the EPA approved the proposal submitted by the State of Maryland for the operation of a permit program for discharges into navigable waters under Section 402 of the federal Clean Water Act, 33 U.S.C. Section 1342. On May 15, 1989, EPA and Maryland entered into a superseding Memorandum of Agreement for such discharges. On September 30, 1990, the Administrator of the EPA approved the proposal submitted by the State of Maryland for the operation of a general permit program. Under the approvals described above, this general discharge permit is both a State of Maryland general discharge permit and an NPDES general discharge permit.

Part IX. DEFINITIONS

The following words and terms used in this chapter have the following meanings unless the context clearly indicates otherwise. Terms used in this permit and not otherwise defined herein shall have the meaning attributed to them in 40 C.F.R. Part 122.

1. "Administration" means the Maryland Department of the Environment, Water Management Administration.
2. "Appropriate approval authority" means the state or local government agency that has authority to review and approve Erosion and Sediment Control Plans and Stormwater Management Plans.
3. "Construction Activity" means clearing, grading, excavating, or other earth disturbing activities that result in a land disturbance equal to or greater than one acre, including the disturbance of less than one acre of land that is part of a larger common plan of development or sale that will ultimately disturb more than one acre. Construction activity includes construction-related activities (within one quarter mile of the main activity) that specifically support the construction activity and involves earth disturbance or pollutant-generating activities of its own, and can include activities associated with equipment staging yards, materials storage areas, excavated material disposal areas, and borrow areas. Construction activity does not include earth disturbance for agricultural and silvicultural production activities such as for orchards, cultivated crops, pastures, range lands, and forest lands, unless those activities involve construction of structures, roads, or other appurtenances.
4. "CWA" means the federal Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*, or the Federal Water Pollution Control Act or the Amendments to the Clean Water Act, and regulations promulgated thereunder.
5. "Director" means the Regional Administrator, the Secretary of the Maryland Department of the Environment, or an authorized representative.
6. "Larger common plan of development or sale" means an area where multiple separate and distinct construction activities are occurring under one plan. The "plan" in a common plan of development or sale is broadly defined as any announcement or piece of documentation (including

a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating that construction activities may occur on a specific plot.

7. "Permanent stabilization" means that all soil disturbing activities at the site have been completed and the following criteria are met, whichever is most stringent:
 - a. The site meets the stabilization requirements in the approved plans;
 - b. The site meets stabilization requirements in COMAR 26.17.01.07.B.6(f), even if approved plans have a less stringent requirement (see COMAR 26.17.01.08.G), and in the 2011 Standards and Specifications for Soil Erosion and Sediment Control or any updated standards issued by MDE (after their effective date); or
 - c. Either of the two following criteria are met:
 - i. A uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or
 - ii. Equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.
 - iii. When background native vegetation will cover less than 100 percent of the ground (e.g., arid areas, beaches), the 70 percent coverage criteria is adjusted as follows: if the native vegetation covers 50 percent of the ground, 70 percent of 50 percent ($0.70 \times 0.50 = 0.35$) would require 35 percent total cover for final stabilization. On a beach with no natural vegetation, no stabilization is required.
 - d. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land, staging areas for highway construction, etc.), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to "water of the United States," and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria (a), (b), or (c) above.
8. "Person" is as defined in COMAR 26.17.01 (Erosion and Sediment Control) and COMAR 26.17.02 (Stormwater Management).
9. "Plans" means a permittee's Erosion and Sediment Control Plan and Stormwater Management Plan, collectively.
10. "Project" means the total area upon which construction activity will occur through stages or phases over time.
11. "Site" means any area where Permittee engages in Construction Activity and where coverage under an applicable permit is required.
12. "Stormwater" means precipitation runoff, snowmelt runoff, and surface runoff and drainage.
13. "Stormwater Associated with Construction Activity" means the discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to clearing, grading, and/or excavation activities.

Jay Sakai, Director
Water Management Administration